

**PATENTS**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Sherwood

Serial No.: 10/028,275

Filed: December 28, 2001

Confirmation No.: 2691

Group Art Unit: 2614

Examiner: Phan, Joseph T.

Docket No.: 190252-1690

For: **System and Method for Delayed or Repeated Message Delivery**

**COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE**

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

The Examiner has made statements in the Statement of Reasons for Allowance that may be viewed as an oversimplification of the examination issues, and if taken out of context, could give rise to an improper interpretation of the claims as well as the file history. For these reasons, Applicant provides the following comments to ensure proper interpretation of the claims and history.

While Applicant agrees with the Examiner that the stated reasons for allowance of the claims are indeed valid grounds for allowance, Applicant wishes to clarify for the record that the stated reasons may be viewed as an oversimplification of the issues. Along these lines, first, Applicant does *not* admit that the stated reasons for allowance are the only reasons for allowance, and Applicant contends that the allowance and scope of these claims are in fact *not* limited to the Examiner's stated reasons for allowance. Second, each allowed claim has a different combination of elements, which distinguish each claim from the references of record, and consequently, each claim should be analyzed separately for infringement and validity. 35 U.S.C. 288. In other

words, all of the claims do not stand or fall together, especially and particularly based upon the stated reasons for allowance.

If the Examiner disagrees with any of Applicant's comments herein, Applicant respectfully requests that the Examiner further clarify the record. Otherwise, it should be assumed that the above discussion is an accurate characterization of the file history and interpretation of the claims.

Respectfully submitted,

/BAB/

**Benjamin A. Balser, Reg. No. 58,169**  
Attorney for Applicant

**THOMAS, KAYDEN, HORSTEMEYER  
& RISLEY, L.L.P.**  
600 Galleria Parkway, Suite 1500  
Atlanta, Georgia 30339  
Telephone: (770) 933-9500